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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) No. CR 07-0336 WHA
11 Plaintiff,)
12 v.)
13 MAURICE BIBBS and DEANDRE WATSON,)
14 Defendants.)
15

**JOINT REQUEST TO VACATE
BRIEFING SCHEDULE AND
[proposed] ORDER**

16 In this action, both defendants are charged with one count of carjacking (18 U.S.C. § 2119)
17 with the use of a firearm (18 U.S.C. § 924(c).) Mr. Bibbs alone was charged with one count of
18 attempting to intimidate a witness (18 U.S.C. § 1512). On the same day that both defendants made
19 their first appearance in this Court, the government provided some discovery to defense counsel,
20 including approximately 44 taped telephone calls allegedly made by Mr. Bibbs from custody after
21 he was arrested in this matter.
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23 Thereafter, based on that discovery, this Court and counsel set a briefing schedule for
24 pretrial motions, with defendants' motion due on September 11, 2007.
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26 Approximately a week ago, the government provided both counsel with an additional 34
calls allegedly made by Mr. Bibbs from custody. However, the government has just advised
27 defense counsel that it has obtained from San Francisco jail officials several hundred additional
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1 taped telephone calls made from custody both by Mr. Bibbs and Mr. Watson. Based on an initial
2 review of some of those taped calls, the government has advised defense counsel that it believes it
3 will seek a Superseding Indictment which to add additional charges against the defendants
4 separately and/or jointly, including additional charges of attempting to intimidate a witness.

5 The government is in the process of copying those taped calls for defense counsel. The
6 government has represented that those calls fill 12 CDs.

7 In addition, the government advised defense counsel on August 17, 2007 that San
8 Francisco jail officials are in the process of obtaining and copying for the government additional
9 taped calls, but that computer problems have delayed that process. The government has not been
10 able to determine how many additional taped calls have yet to provided by San Francisco jail
11 officials, but believes that at least one additional CD full of calls by either Mr. Bibbs or Mr.
12 Watson while each was in custody is likely.

13 Defendants, separately and jointly, intended to file motions based on the charges in the
14 Indictment and the discovery provided to date. Among the motions defendants anticipated filing
15 are motions for severance and discovery. The motion for severance would be based in part on the
16 disparity of charges in the Indictment and on the government's intent to admit at a joint trial
17 statements by Mr. Bibbs. The admission of post-arrest statements by one defendant may raise
18 serious constitutional issues. However, if this new material – which the defense has not received
19 and thus not reviewed – will result in the government seeking 1) additional charges against one or
20 both defendants, and 2) to offer at trial additional statements by one or both defendants, the nature
21 and scope of defendants' motions may change dramatically.

22 The government has also recently advised defense counsel that the results of DNA tests
23 previously ordered by this Court will likely not be available until the end of September 2007.

24 It appears to all counsel that it would be more efficient and more appropriate to delay the
25 preparation and hearing of pretrial motions to permit the government to complete its acquisition
26 and review of the numerous taped telephone calls, and to decide whether new charges will be
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1 brought, and to allow defense counsel to review and analyze such material. Based on that review,
2 defense counsel can more intelligently decide if the same or different motions should be prepared
3 and filed, and this Court can rule on those motions with a fuller appreciation of the evidence which
4 affects the a determination of those motions.

5 The government estimates that it will provide copies of the additional discovery (taped
6 telephone calls) by the end of the first week of September 2007. The government further estimates
7 that and will have a decision about whether new charges will be brought by mid-October 2007.
8 The delay is needed to review the many taped calls which have been or which will be provided to
9 the government. Further, government counsel expects to be in two back-to-back trials
10 commencing the last week of September 2007.

11 For these reasons, the parties jointly request and STIPULATE that the existing briefing
12 schedule and hearing date be vacated. If a Superseding Indictment is obtained, all parties will
13 appear before this Court shortly thereafter, and a new briefing schedule can be set. If the
14 government determines not to seek additional charges, or the grand jury refuses to issue a
15 Superseding Indictment, the government will promptly advise defense counsel and this matter will
16 be set before this Court promptly to establish a new briefing and hearing schedule.

17 So Stipulated.

18 DATED: August 24, 2007

19 _____/s/
20 Scott A. Sugarman
21 Attorney for Deandre Watson

22 DATED: August 24, 2007

23 _____/s/
24 Judd Iverson
25 Attorney for Maurice Bibbs

26 DATED: August 24, 2007

27 _____/s/
28 William Frentzen
Assistant United States Attorney

1 So Ordered.

2 DATE:

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 WILLIAM H. ALSUP
4 UNITED STATES DISTRICT COURT
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